

Group II: Claims 1-8, 10, 12-50, 59 and 62-75, drawn to compounds of formula I wherein **p is 1**; and R2 and R3 are independent substituents and are NOT taken together to form a cyclic group, corresponding composition and method of use, classified in class 544, subclass various.

Group III: Claims 1-8, 11-50, and 62-75, drawn to compounds of formula I wherein **p is 2**; and R2 and R3 are independent substituents and are NOT taken together to form a cyclic group, corresponding composition and method of use, classified in class 540, subclass various.

Group IV: Claims 1-9, 12-58 and 61-75, drawn to compounds of formula I wherein **p is 0**; and R2 and R3 taken together to form a cyclic group (i.e. spiro compounds), corresponding composition and method of use, classified in class 548, subclass 300.7.

Group V: Claims 1-8, 10, 12-51, 59-60 and 62-75, drawn to compounds of formula I wherein **p is 1**; and R2 and R3 taken together to form a cyclic group (i.e. spiro compounds), corresponding composition and method of use, classified in class 548, subclass 230.

Group VI: Claims 1-8, 11-51, and 62-75, drawn to compounds of formula I wherein **p is 2**; and R2 and R3 taken together to form a cyclic group (i.e. spiro compounds), corresponding composition and method of use, classified in class 548, subclass 543.

(Restriction Requirement, pages 2-3).

The Examiner's alleged basis for requiring restriction is the "compounds of Groups I-VI are drawn to structurally dissimilar compounds," they are made and used independently,

and “[t]hey would be expected to raise different issues of patentability” (Restriction Requirement, page 3).

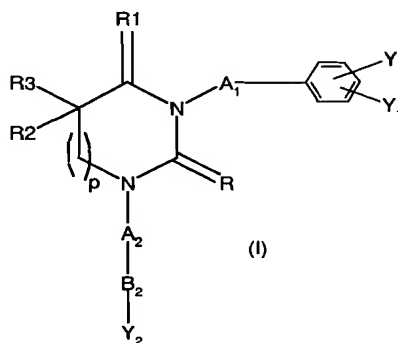
The Examiner has also required election of a single disclosed species falling within the elected group.

Notwithstanding the Examiner’s allegations, Applicants respectfully traverse this restriction requirement.

Even though the compounds of Groups I to VI may be patentably distinct, this is not the sole criterion for a proper restriction requirement. There must also be a serious burden on the Examiner.

As indicated by the Examiner, the invention Groups I and IV are in the same class of 548, invention Groups II and V are in the same class of 544, and invention Groups III and VI are in the same class 540. Thus it is submitted that these three pairs of invention groups can be searched together, imposing no undue burden on the Examiner.

Furthermore, the subject matter of all of the Examiner’s Groups I to VI relate to compounds that have inhibitory effects on protein kinases and share a common core structure of Formula (I):



Accordingly, the search of one inventive group may facilitate the search of the other invention groups. Thus, it should not impose an undue burden for the Examiner to search all of the invention groups together.

Therefore, reconsideration of the restriction requirement and action on the merits are requested.

Provisional Election

Should the restriction requirement be made final and in order to be fully responsive, Applicants provisionally elect with traverse the invention Group I, Claims 1-9, 12-50, 52-58 and 61-75, drawn to compounds of formula I wherein p is 0, and R2 and R3 are independent substituents and are not taken together to form a cyclic group.

Applicants note that new claim 76, which was added in the Preliminary Amendment filed concurrently herewith, should also be included in Group I.


In order to comply with the provisions of § 1.143, Applicants provisionally elect, with traverse, the species of Example 96 (at page 116 of the present application), i.e. 5,5-dimethyl-1-[2-(pyrid-3-ylamino)pyrid-4-ylmethyl]-3-(4-trifluoromethylsulfanylphenyl)imidazolidine-2,4-dione. The claims that read upon the elected species are Claims 1-9, 12-24, 27-37, 39-41, 43-44, 49-50, 52-54, 56-58, and 61- 76.

Applicants reserve their right to file one or more divisional applications with respect to any of the non-elected subject matter.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

August 17, 2006
Date


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Sanofi-Aventis Docket No. FRAV2003/0002 US NP